

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 03 ANKARA 002750

SIPDIS

DEPARTMENT FOR EUR/SE

E.O. 12958: DECL: 05/13/2015

TAGS: [PGOV](#) [PREL](#) [PHUM](#) [TU](#) [OSCE](#)

SUBJECT: RELIGIOUS MINORITIES SAY GOT BILL FAILS TO SOLVE
PROPERTY ISSUE

REF: 04 ANKARA 5141 AND PREVIOUS

Classified by Polcouns John Kunstadter; reasons 1.4 b and d.

1. (C) Summary: The GOT is reviewing a draft bill designed to address the issue of properties seized by the Turkish State from religious minority communities. Representatives of the Christian and Jewish communities say the bill would have only minimal favorable impact, primarily because it would generally not enable the communities to reclaim the hundreds of properties expropriated by the State over the years. EU officials criticized earlier versions of the bill, and an EU contact told us the latest version also falls short of a solution. End Summary.

Cabinet Reviewing Long-Delayed Draft

2. (C) The GOT Cabinet is currently reviewing a long-delayed draft law designed to address the conflict over properties belonging to Turkey's historic Christian, Jewish and Baha'i communities. The property issue has been one of most enduring weak points in Turkey's EU candidacy and in its relations with the U.S. The GOT has been developing the bill for nearly a year; EU diplomats criticized earlier drafts of the legislation.

3. (C) The GOT prepared the new bill, expected to be introduced in Parliament this month, after receiving input from attorneys for the minority religious communities, particularly the Greek Orthodox, Armenian Orthodox, Syrians, and Jews. However, representatives of the minority communities note that the GOT made few changes to address their concerns. They point out that the new draft is only a marginal improvement over the old, primarily because it would not enable "non-Muslim" foundations to reclaim more than a very small portion of the hundreds of properties expropriated by the Turkish State over the years, especially since 1974. Sema Kilicer, political officer at the European Commission Representation to Turkey, supported the communities' view, averring to us that claims by GOT officials that the draft will resolve the property dispute are "all lies."

State Has Seized Non-Muslim Properties

4. (U) At issue are properties historically belonging to Turkey's Christian and Jewish communities. In 1936, the GOT required all foundations to declare their sources of income. In 1974, amidst mounting tensions over Cyprus, the Turkish High Court of Appeals issued a ruling declaring that minority religious foundations had no right to acquire properties beyond those listed in the 1936 declarations. That ruling launched a process under which the State has seized control of properties acquired after 1936, or properties in areas where the local "non-Muslim" community has dwindled. Most of the expropriated properties belonged to Greek Orthodox and Armenian Orthodox foundations. The properties include not only churches but also rent-generating assets such as apartment buildings.

5. (U) At the same time, the State has seized control of numerous foundations when the size of the minority community in a particular district dwindled below the level required to hold foundation board elections. Religious minorities are required to establish foundations in order to own and maintain properties.

Non-Muslim Communities Criticize Draft

6. (C) As part of its EU reform process, the GOT has passed legislation aimed at allowing "non-Muslim" foundations to acquire property. But these reforms have had minimal impact (reftel). EU (and USG) officials have urged the GOT to take further steps. The new bill was prepared by the General Directorate of Foundations (Vakiflar), which oversees the foundations and their properties, in an attempt to address the issue. In letters to the European Commission, representatives of the Christian and Jewish communities

explain why they believe the new draft falls far short of a solution. Their views are summarized below.

Summary of Bill's Shortcomings

17. (U) Seized Foundations: The draft does not permit the minority communities to regain control of the foundations expropriated by the Vakiflar over the years. In fact, the bill makes it clear that the seized foundations will remain permanently under Vakiflar control. Since the communities will be unable to reclaim the expropriated foundations, the bill appears to prevent them from ever regaining the confiscated properties affiliated with those foundations. Religious minority communities have lost properties with commercial value or historical/religious significance in various locations. In many instances, the Vakiflar seized the properties when the "non-Muslim" community dwindled in the district where the property was located. Community representatives note that these properties hold value for the communities, regardless of whether "non-Muslims" still reside in the immediate area, and their loss has eroded their ability to raise funds and maintain traditions.

18. (C) Confiscated Properties: Attorneys for the minority communities maintain that the draft article on the return of immovables to the foundations is so vaguely worded that, in practice, it will lead to lengthy court cases that will make it virtually impossible for the foundations to reclaim properties. Moreover, the bill would prevent minority foundations from reclaiming properties in cases where a court has canceled a foundation's deed or annulled a will donating a property to a foundation. In anticipation of the new legislation, community representatives say, the Vakiflar has recently launched a large-scale effort to take property cases to court in order to prevent the foundations from reclaiming properties.

19. (U) Council: The 15-member Vakiflar Council, the highest decision-making body overseeing the foundations, would include only one member elected by the "non-Muslim" foundations. The Council would be dominated by State officials and nominees selected by the GOT. Attorneys for the Christian and Jewish communities maintain that one member cannot represent the various religious minority communities. They had urged the GOT to include six representatives elected by religious minority communities with foundations.

110. (U) Foreign Management: The bill would allow foreigners to establish foundations in Turkey; however, members of a foundation's executive organs would be required to hold Turkish residence permits. Attorneys for the religious minority communities argue the State included a residence requirement in order to maintain strict control over foreign involvement in the foundations.

111. (U) Board Elections: The draft states that new rules and procedures for electing foundation board representatives will be specified in a regulation, but it sets no deadline for establishing the regulation. Attorneys for the Greek Orthodox community are concerned that this ambiguity could cause delays leading to the further loss of foundations. The law authorizes the Vakiflar to seize any foundation that has not held board elections for 10 years. Greek Orthodox representatives say Istanbul authorities have rejected without explanation nearly all applications by Greek Orthodox foundations to hold elections since 1990, leading to the expropriation of foundations.

112. (U) Malfeasance: Authorities would be able to suspend the entire board of a foundation for the duration of court proceedings if one board member is found guilty of malfeasance causing "irreparable consequences." Community representatives argue that the full board should not be punished for the misdeeds of one member. They also say the bill gives authorities excessively broad powers, because it fails to specify that "gross negligence" and/or "willful misconduct" are required to justify suspending a board.

113. (U) Sale/Exchange of Property: Foundations would be able to sell their longstanding properties, or exchange them for new properties, with the approval of a court. Community attorneys say courts have historically been hostile to the foundations, and argue that court approval should not be required unless there is a legal dispute between the foundation and the State over a property.

114. (U) Charters: Foundations would be allowed to revise their "purposes and functions" as stated in their charters with the approval of relevant State authorities. Community representatives maintain that foundations should be permitted to make such changes without State approval.

115. (U) International Activity/Assistance: Foundations would be permitted to open branches abroad, cooperate with foreign organizations, and receive financial support from foreign

individuals and institutions. Community representatives say this is a positive step. However, they note that the bill requires foundations to report all foreign donations to authorities, and states that all transactions must be done through a bank. They say these requirements reflect the State's intense scrutiny of "non-Muslim" foundations.

Comment

¶16. (C) The expropriation of properties belonging to religious minority communities is an element of the Turkish State's broader campaign against religious pluralism. Since the founding of the Republic of Turkey in 1923, the State has utilized a series of policies in a relentless effort to squeeze out religious minorities; for example, in 1940 the State imposed a wealth tax on Christians and Jews at a rate up to 10 times greater than the rate for Muslims. As Christians and Jews left the country, the State seized their properties and foundations.

¶17. (C) The State has succeeded in establishing a national identity based on the Turkish language and the Islamic faith. Religious diversity, like linguistic or ethnic diversity, is widely seen as a threat to national unity. As a result, there is no domestic constituency for loosening restrictions on religious minorities. The EU and U.S. continue to urge progress, but the ruling AK Party is not likely to undertake serious reform to redress the longstanding grievances of Christians, Jews and others while it remains unable to address the headscarf ban and other issues important to its Islamist base.

¶18. (U) We will continue to follow this legislation, and to discuss it with representatives of the minority communities as well as the Vakiflar.

EDELMAN